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IMPLEMENTATION OF ARTICLE 21 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Draft general recommendation No. 23 (articles 7 and 8)

Article 7 (political and public life)

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Background

1. The Convention on the Elimination of All Forms of Discrimination against Women places special importance on the participation of women in the public life of their countries. The preamble to the Convention states in part:

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"Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity".

2. The Convention further reiterates in its preamble the importance of women's participation in decision-making as follows:

"Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields".

3. Moreover, in article 1 of the Convention, the term "discrimination against women" is interpreted to mean:

"any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".

4. Other conventions, declarations and international analyses place great importance on the participation of women in public life and have set a framework of international standards of equality. These include the Universal Declaration of Human Rights,[1] the International Covenant on Civil and Political Rights,[2] the Convention on the Political Rights of Women,[3] the Vienna Declaration,[4] paragraph 13 of the Beijing Declaration and Platform for Action,[5] general recommendations 5 and 8 under the Convention,[6] general comment 25 adopted by the Human Rights Committee,[7] the recommendation adopted by the Council of the European Union on balanced participation of women and men in the decision-making process[8] and the European Commission's "How to Create a Gender Balance in Political Decision-making".[9]

5. Article 7 obliges States parties to take all appropriate measures to eliminate discrimination against women in political and public life and to ensure that they enjoy equality with men in political and public life. The obligation specified in article 7 extends to all areas of public and political life and is not limited to those areas specified in subparagraphs (a), (b) and (c). The political and public life of a country is a broad concept. It refers to the exercise of political power, in particular the exercise of legislative, judicial, executive and administrative powers. The term covers all aspects of public administration and the formulation and implementation of policy at the international, national, regional and local levels. The concept also includes many aspects of civil society, including public boards and local councils and the activities of organizations such as political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life.

6. The Convention envisages that, to be effective, this equality must be achieved within the framework of a political system in which each citizen enjoys the right to vote and be elected at genuine periodic elections held on the basis of universal suffrage and by secret ballot, in such a way as to guarantee the free expression of the will of the electorate, as provided for under international human rights instruments, such as article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights.

7. The Convention's emphasis on the importance of equality of opportunity and of participation in public life and decision-making has led the Committee to review article 7 and to suggest to States parties that in reviewing their laws and policies and in reporting under the Convention, they should take into account the comments and recommendations set out below.

Comments

8. Public and private spheres of human activity have always been considered distinct, and have been regulated accordingly. Invariably, women have been assigned to the private or domestic sphere, associated with reproduction and the raising of children, and in all societies these activities have been treated as inferior. By contrast, public life, which is respected and honoured, extends to a broad range of activity outside the private and domestic sphere. Men historically have both dominated public life and exercised the power to confine and subordinate women within the private sphere.

9. Despite women's central role in sustaining the family and society and their contribution to development, they have been excluded from political life and the decision-making process, which nonetheless determine the pattern of their daily lives and the future of societies. Particularly in times of crisis, this exclusion has silenced women's voices and rendered invisible their contribution and experiences.

10. In all nations, the most significant factors inhibiting women's ability to participate in public life have been the cultural framework of values and religious beliefs, the lack of services and men's failure to share the tasks associated with the organization of the household and with the care and raising of children. In all nations, cultural traditions and religious beliefs have played a part in confining women to the private spheres of activity and excluding them from active participation in public life.

11. Relieving women of some of the burdens of domestic work would allow them to engage more fully in the life of their communities. Women's economic dependence on men often prevents them from making important political decisions and from participating actively in public life. Their double burden of work and their economic dependence, coupled with the long or inflexible hours of both public and political work, prevent women from being more active.

12. Stereotyping, including that perpetrated by the media, confines women in political life to issues such as the environment, children and health, and excludes them from responsibility for finance, budgetary control and conflict resolution. The low involvement of women in the professions from which

politicians are recruited can create another obstacle. In countries where women leaders do assume power this can be the result of the influence of their fathers, husbands or male relatives rather than electoral success in their own right.

Political systems

13. The principle of equality of women and men has been affirmed in the constitutions and laws of most countries and in all international instruments. Nonetheless, in the last 50 years, women have not achieved equality, and their inequality has been reinforced by their low level of participation in public and political life. Policies developed and decisions made by men alone reflect only part of human experience and potential. The just and effective organization of society demands the inclusion and participation of all its members.

14. No political system has conferred on women both the right to and the benefit of full and equal participation. While democratic systems have improved women's opportunities for involvement in political life, the many economic, social and cultural barriers they continue to face have seriously limited their participation. Even historically stable democracies have failed to integrate fully and equally the opinions and interests of the female half of the population. Societies in which women are excluded from public life and decision-making cannot be described as democratic. The concept of democracy will have real and dynamic meaning and lasting effect only when political decision-making is shared by women and men and takes equal account of the interests of both. The examination of States parties' reports shows that where there is full and equal participation of women in public life and decision-making, the implementation of their rights and compliance with the Convention improves.

Temporary special measures

15. While removal of de jure barriers is necessary, it is not sufficient. Failure to achieve full and equal participation of women can be unintentional and the result of outmoded practices and procedures which inadvertently promote men. Under article 4, the Convention encourages the use of temporary special measures in order to give full effect to articles 7 and 8. Where countries have developed effective temporary strategies in an attempt to achieve equality of participation, a wide range of measures has been implemented, including recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas and targeting women for appointment to public positions such as the judiciary or other professional groups that play an essential part in the everyday life of all societies. The formal removal of barriers and the introduction of temporary special measures to encourage the equal participation of both men and women in the public life of their societies are essential prerequisites to true equality in political life. In order, however, to overcome centuries of male domination of the public sphere, women also require the encouragement and support of all sectors of society to achieve full and effective participation, encouragement which must be led by States parties to the Convention, as well as by political parties and public officials. States parties have an obligation to ensure that temporary special measures are

clearly designed to support the principle of equality and therefore comply with constitutional principles which guarantee equality to all citizens.

Summary

16. The critical issue, emphasized in the Beijing Platform for Action,[5] is the gap between the de jure and de facto, or the right as against the reality of women's participation in politics and public life generally. Research demonstrates that if women's participation reaches 30 to 35 per cent (generally termed a "critical mass"), there is a real impact on political style and the content of decisions, and political life is revitalized.

17. In order to achieve broad representation in public life, women must have full equality in the exercise of political and economic power; they must be fully and equally involved in decision-making at all levels, both nationally and internationally, so that they may make their contribution to the goals of equality, development and the achievement of peace. A gender perspective is critical if these goals are to be met and if true democracy is to be assured. For these reasons, it is essential to involve women in public life to take advantage of their contribution, to assure their interests are protected and to fulfil the guarantee that the enjoyment of human rights is for all people regardless of gender. Women's full participation is essential not only for their empowerment but also for the advancement of society as a whole.

The right to vote and to be elected (article 7, para. (a))

18. The Convention obliges States parties in constitutions or legislation to take appropriate steps to ensure that women, on the basis of equality with men, enjoy the right to vote in all elections and referendums, and to be elected. These rights must be enjoyed both de jure and de facto.

19. The examination of the reports of States parties demonstrates that, while almost all have adopted constitutional or other legal provisions that grant to both women and men the equal right to vote in all elections and public referendums, in many nations women continue to experience difficulties in exercising this right.

20. Factors which impede these rights include the following:

(a) Women frequently have less access than men to information about candidates and about party political platforms and voting procedures, information which Governments and political parties have failed to provide. Other important factors that inhibit women's full and equal exercise of their right to vote include their illiteracy, their lack of knowledge and understanding of political systems or about the impact that political initiatives and policies will have upon their lives. Failure to understand the rights, responsibilities and opportunities for change conferred by franchise also means that women are not always registered to vote;

(b) Women's double burden of work, as well as financial constraints, will limit women's time or opportunity to follow electoral campaigns and to have the full freedom to exercise their vote;

(c) In many nations, traditions and social and cultural stereotypes discourage women from exercising their right to vote. Many men influence or control the votes of women by persuasion or direct action, including voting on their behalf. Any such practices should be prevented;

(d) Other factors that in some countries inhibit women's involvement in the public or political lives of their communities include restrictions on their freedom of movement or right to participate, prevailing negative attitudes towards women's political participation, or a lack of confidence in and support for female candidates by the electorate. In addition, some women consider involvement in politics to be distasteful and avoid participation in political campaigns.

21. These factors at least partially explain the paradox that women, who represent half of all electorates, do not wield their political power or form blocs which would promote their interests or change government, or eliminate discriminatory policies.

22. The system of balloting, the distribution of seats in Parliament, the choice of district, all have a significant impact on the proportion of women elected to Parliament. Political parties must embrace the principles of equal opportunity and democracy and endeavour to balance the number of male and female candidates.

23. The enjoyment of the right to vote by women should not be subject to restrictions or conditions that do not apply to men or that have a disproportionate impact on women. For example, limiting the right to vote to persons who have a specified level of education, who possess a minimum property qualification or who are literate is not only unreasonable, it may violate the universal guarantee of human rights. It is also likely to have a disproportionate impact on women, thereby contravening the provisions of the Convention.

<u>The right to participate in formulation of government policy (article 7, para. (b))</u>

24. The participation of women in government at the policy level continues to be low in general. Although significant progress has been made and in some countries equality has been achieved, in many countries women's participation has actually been reduced.

25. Article 7 (b) also requires States parties to ensure that women have the right to participate fully in and be represented in public policy formulation in all sectors and at all levels. This would facilitate the mainstreaming of gender issues and contribute a gender perspective to public policy-making.

26. States parties have a responsibility, where it is within their control, both to appoint women to senior decision-making roles and, as a matter of course, to consult and incorporate the advice of groups which are broadly representative of women's views and interests.

27. States parties have a further obligation to ensure that barriers to women's full participation in the formulation of government policy are identified and overcome. These barriers include complacency when token women are appointed, and traditional and customary attitudes that discourage women's participation. When women are not broadly represented in the senior levels of government or are inadequately or not consulted at all, government policy will not be comprehensive and effective.

28. While States parties generally hold the power to appoint women to senior cabinet and administrative positions, political parties also have a responsibility to ensure that women are included in party lists and nominated for election in areas where they have a likelihood of electoral success. States parties should also endeavour to ensure that women are appointed to government advisory bodies on an equal basis with men and that these bodies take into account, as appropriate, the views of representative women's groups. It is the Government's fundamental responsibility to encourage these initiatives to lead and guide public opinion and change attitudes that discriminate against women or discourage women's involvement in political and public life.

29. Measures that have been adopted by a number of States parties in order to ensure equal participation by women in senior cabinet and administrative positions and as members of government advisory bodies include: adoption of a rule whereby, when potential appointees are equally qualified, preference will be given to a woman nominee; the adoption of a rule that neither sex should constitute less than 40 per cent of the members of a public body; a quota for women members of cabinet and for appointment to public office; and consultation with women's organizations to ensure that qualified women are nominated for membership in public bodies and offices and the development and maintenance of registers of such women in order to facilitate the nomination of women for appointment to public bodies and posts. Where members are appointed to advisory bodies upon the nomination of private organizations, States parties should encourage these organizations to nominate qualified and suitable women for membership in these bodies.

The right to hold public office and to perform all public functions (article 7, para. (b))

30. The examination of the reports of States parties demonstrates that women are excluded from top-ranking positions in cabinets, the civil service and in public administration, in the judiciary and in justice systems. Women are rarely appointed to these senior or influential positions and while their numbers may in some States be increasing at the lower levels and in posts usually associated with the home or the family, they form only a tiny minority in decision-making positions concerned with economic policy or development, political affairs, defence, peacemaking missions, conflict resolution or constitutional interpretation and determination.

31. Examination of the reports of States parties also demonstrates that in certain cases the law excludes women from exercising royal powers, from serving as judges in religious or traditional tribunals vested with jurisdiction on behalf of the State or from full participation in the military. These provisions discriminate against women, deny to society the advantages of their

involvement and skills in these areas of the life of their communities and contravene the principles of the Convention.

The right to participate in non-governmental and public and political organizations (article 7, para. (c))

32. An examination of the reports of States parties demonstrates that, on the few occasions when information concerning political parties is provided, women are under-represented or concentrated in less influential roles than men. As political parties are an important vehicle in decision-making roles, Governments should encourage political parties to examine the extent to which women are full and equal participants in their activities and, where this is not the case, should identify the reasons for this. Political parties should be encouraged to adopt effective measures, including the provision of information, financial and other resources, to overcome obstacles to women's full participation and representation and ensure that women have an equal opportunity in practice to serve as party officials and to be nominated as candidates for election.

33. Measures that have been adopted by some political parties include setting aside for women a certain minimum number or percentage of positions on their executive bodies, ensuring that there is a balance between the number of male and female candidates nominated for election, and ensuring that women are not consistently assigned to less favourable constituencies or to the least advantageous positions on a party list. States parties should ensure that such temporary special measures are specifically permitted under anti-discrimination legislation or other constitutional guarantees of equality.

34. Other organizations such as trade unions and political parties have an obligation to demonstrate their commitment to the principle of gender equality in their constitutions, in the application of those rules and in the composition of their memberships with gender-balanced representation on their executive boards so that these bodies may benefit from the full and equal participation of all sectors of society and from contributions made by both sexes. These organizations also provide a valuable training ground for women in political skills, participation and leadership, as do non-governmental organizations (NGOs).

Article 8 (international level)

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Comments

35. Under article 8, Governments are obliged to ensure the presence of women at all levels and in all areas of international affairs. This requires that they be included in economic and military matters, in both multilateral and bilateral diplomacy, and in official delegations to international and regional conferences.

36. From an examination of the reports of States parties, it is evident that women are grossly under-represented in the diplomatic and foreign services of most Governments, and particularly at the highest ranks. Women tend to be assigned to embassies of lesser importance to the country's foreign relations and in some cases women are discriminated against in terms of their appointments by restrictions pertaining to their marital status. In other instances spousal and family benefits accorded to male diplomats are not available to women in parallel positions. Opportunities for women to engage in international work are often denied because of assumptions about their domestic responsibilities, including that the care of family dependants will prevent them accepting appointment.

37. Many permanent missions to the United Nations and to other international organizations have no women among their diplomats and very few at senior levels. The situation is similar at expert meetings and conferences that establish international and global goals, agendas and priorities. Organizations of the United Nations system and various economic, political and military structures at the regional level have become important international public employers, but here, too, women have remained a minority concentrated in lower-level positions.

38. There are few opportunities for women and men, on equal terms, to represent Governments at the international level and to participate in the work of international organizations. This is frequently the result of an absence of objective criteria and processes for appointment and promotion to relevant positions and official delegations.

39. The globalization of the contemporary world makes the inclusion of women and their participation in international organizations, on equal terms with men, increasingly important. The integration of a gender perspective and women's human rights into the agenda of all international bodies is a government imperative. Many crucial decisions on global issues, such as peacemaking and conflict resolution, military expenditure and nuclear disarmament, development and the environment, foreign aid and economic restructuring, are taken with limited participation of women. This is in stark contrast to their participation in these areas at the non-governmental level.

40. The inclusion of a critical mass of women in international negotiations, peacekeeping activities, all levels of preventive diplomacy, mediation, humanitarian assistance, social reconciliation, peace negotiations and the international criminal justice system will make a difference. In addressing armed or other conflicts, a gender perspective and analysis is necessary to understand their differing effects on women and men.[10]

RECOMMENDATIONS

Articles 7 and 8

41. States parties should ensure that their constitutions and legislation comply with the principles of the Convention, and in particular with articles 7 and 8.

42. States parties are under an obligation to take all appropriate measures, including the enactment of appropriate legislation that complies with their Constitution, to ensure that organizations such as political parties and trade unions, which may not be subject directly to obligations under the Convention, do not discriminate against women and respect the principles contained in articles 7 and 8.

43. States parties should identify and implement temporary special measures to ensure the equal representation of women in all fields covered by articles 7 and 8.

44. States parties should explain the reason for, and effect of, any reservations to articles 7 or 8 and indicate where the reservations reflect traditional, customary or stereotyped attitudes towards women's roles in society, as well as the steps being taken by the States parties to change those attitudes. States parties should keep the necessity for such reservations under close review and in their reports include a timetable for their removal.

Article 7

45. Measures that should be identified, implemented and monitored for effectiveness include, under article 7, paragraph (a), those designed to:

(a) Achieve a balance between women and men holding publicly elected positions;

(b) Ensure that women understand their right to vote, the importance of this right and how to exercise it;

(c) Ensure that barriers to equality are overcome, including those resulting from illiteracy, language, poverty and impediments to women's freedom of movement;

(d) Assist women experiencing such disadvantages to exercise their right to vote and to be elected.

46. Under article 7, paragraph (b), such measures include those designed to ensure:

(a) Equality of representation of women in the formulation of government policy;

(b) Women's enjoyment in practice of the equal right to hold public office;

(c) Recruiting processes directed at women that are open and subject to appeal.

47. Under article 7, paragraph (c), such measures include those designed to:

(a) Ensure that effective legislation is enacted prohibiting discrimination against women;

(b) Encourage non-governmental organizations and public and political associations to adopt strategies that encourage women's representation and participation in their work.

48. When reporting under article 7, States parties should:

(a) Describe the legal provisions that give effect to the rights contained in article 7;

(b) Provide details of any restrictions to those rights, whether arising from legal provisions or from traditional, religious or cultural practices;

(c) Describe the measures introduced and designed to overcome barriers to the exercise of those rights;

(d) Include statistical data, disaggregated by sex, showing the percentage of women relative to men who enjoy those rights;

(e) Describe the types of policy formulation, including that associated with development programmes, in which women participate and the level and extent of their participation;

(f) Under article 7, paragraph (c), describe the extent to which women participate in non-governmental organizations in their countries, including in women's organizations;

(g) Analyse the extent to which the State party ensures that those organizations are consulted and the impact of their advice on all levels of government policy formulation and implementation;

(h) Provide information concerning, and analyse factors contributing to, the under-representation of women as members and officials of political parties, trade unions, employers organizations and professional associations.

Article 8

49. Measures which should be identified, implemented and monitored for effectiveness include those designed to ensure a better gender balance in membership of all United Nations bodies, including the Main Committees of the General Assembly, the Economic and Social Council and expert bodies, including treaty bodies, and in appointments to independent working groups or as country or special rapporteurs.

50. When reporting under article 8, States parties should:

(a) Provide statistics, disaggregated by sex, showing the percentage of women in their foreign service or regularly engaged in international representation or in work on behalf of the State, including membership in government delegations to international conferences and nominations for peacekeeping or conflict resolution roles, and their seniority in the relevant sector;

(b) Describe efforts to establish objective criteria and processes for appointment and promotion of women to relevant positions and official delegations;

(c) Describe steps taken to disseminate widely information on the Government's international commitments affecting women and official documents issued by multilateral forums, in particular, to both governmental and non-governmental bodies responsible for the advancement of women;

(d) Provide information concerning discrimination against women because of their political activities, whether as individuals or as members of women's or other organizations.

Notes

[1] General Assembly resolution 217 A (III).

[2] General Assembly resolution 2200 A (XXI), annex.

[3] General Assembly resolution 640 (VII).

[4] Report of the World Conference on Human Rights, Vienna, 14-25 June 1993 (A/CONF.157/24 (Part I)), chap. III.

[5] Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995 (A/CONF.177/20 and Add.1), chap. I, resolution 1, annex I.

[6] See Official Records of the General Assembly, Forty-third Session, Supplement No. 38 (A/43/38), chap. V.

[7] CCPR/C/21/Rev.1/Add.7, 27 August 1996.

[8] 96/694/EC, Brussels, 2 December 1996.

[9] European Commission document V/1206/96-EN (March 1996).

[10] See para. 141 of the Platform for Action adopted by the Fourth World Conference on Women, held at Beijing from 4 to 15 September 1995 (A/CONF.177/20, chap. I, resolution 1, annex II). See also para. 134, which reads in part: "The equal access and full participation of women in power structures and their full involvement in all efforts for the prevention and resolution of conflicts are essential for the maintenance and promotion of peace and security."